

**JUN 28 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ALFRED M. ADAMS, an Arizona  
resident and citizen,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 04-16702

D.C. No. CV-03-01480-ROS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
Roslyn O. Silver, District Judge, Presiding

Argued and Submitted June 14, 2006  
San Francisco, California

Before: RYMER and T.G. NELSON, Circuit Judges, and KING,<sup>\*\*</sup> Senior  
Judge.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> The Honorable Samuel P. King, Senior United States District Judge for the District of Hawaii, sitting by designation.

Alfred M. Adams appeals the district court’s dismissal of his claim under the Federal Tort Claims Act (FTCA)<sup>1</sup> for lack of jurisdiction. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court correctly determined that Adams’s claim for false light invasion of privacy arose out of defamation as that tort is traditionally defined.<sup>2</sup> The dissemination of false information underlies Adams’s claim as well as the traditional tort of defamation.<sup>3</sup> Accordingly, the FTCA does not waive the United States’s sovereign immunity as to Adams’s claim,<sup>4</sup> and the district court therefore lacked jurisdiction.

**AFFIRMED.**

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<sup>1</sup> 28 U.S.C. §§ 2671–80.

<sup>2</sup> See 28 U.S.C. § 2680(h); *Sheehan v. United States*, 896 F.2d 1168, 1169–72 (9th Cir. 1990) (noting that, when construing the meaning of the torts enumerated by 28 U.S.C. § 2680, the court looks to the “traditional” meaning of the tort “commonly understood” or “established” at the time Congress enacted the FTCA).

<sup>3</sup> Our inquiry focuses not on Adams’s characterization of his claim, but on the conduct underlying it. *Sheehan*, 896 F.2d at 1171; *Block v. Neal*, 460 U.S. 289, 296–97 (1983); *United States v. Neustadt*, 366 U.S. 696, 705–08 (1961).

<sup>4</sup> 28 U.S.C. § 2680(h).